

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Burrell Oil Co. Inc.,
Petitioner-Appellant,

v.

Dickinson County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-30-0712
Parcel No. 03-34-351-013

On May 11, 2010, the above-captioned appeal came on for telephone hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Burrell Oil Co. Inc., (Burrell Oil) requested a hearing and submitted evidence in support of its petition. It was self-represented by Jack Burrell. The Board of Review designated Assistant County Attorney Lonnie Saunders as its legal representative. It also submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Burrell Oil, owner of property located on 252nd Avenue, Orleans, Iowa, also known as Lots 7 & 8 Pioneer Beach, appeal from the Dickinson County Board of Review decision reassessing its property. According to the property record card, the subject property is a vacant lot situated on the lakeshore of East Lake Okoboji, has 100 feet of lake frontage, 100 feet of road frontage and is 175 feet deep.

The real estate was classified as residential on the January 1, 2009, assessment and valued at \$444,200 in land value.

Burrell Oil protested to the Board of Review on the ground the assessment is not equitable as compared to like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a). It did not propose a specific relief other than the assessment be lowered. The Board of Review denied the protest stating, "insufficient evidence presented to prove assessment is excessive."

Burrell Oil filed its appeal with this Board and alleged the same equity ground. It claimed the correct assessment should be \$378,000 in land value.

Jack Burrell disputes the land value by comparing it to the assessment of Lots 34 and 35 Pioneer Beach, near the Burrell Oil property on East Lake Okoboji. By its calculations, the parcel consisting of Lots 34 and 35 Pioneer Beach has a lower unit pricing than its land.

Burrell Oil submitted an exhibit in the certified record listing the land assessment of Lots 34 and 35 Pioneer Beach based on a per-linear foot of shore frontage value. We note it used a different method of calculating the unit value of the properties than that used by the assessor. Burrell Oil simply divided the assessment by the actual lakefront linear feet of the lot to arrive at its per front-foot values. This method failed to apply any depth or map factor to the properties. It compared a lot with 163 foot depth to its 175 foot depth lot without adjustment for the difference. The assessor applied the same map factor to both sites to arrive at the assessments.

Jack Burrell testified that Burrell Oil wanted to be treated fairly and equitably with other owners of similar lots. Using his method of dividing the assessment by the actual lake frontage, he believes Burrell Oil's land is being assessed at \$4442 per front foot, as compared to \$3487 per front foot assessed value on Lots 34 and 35 Pioneer Beach. Monte Burrell testified realtors have told him the Burrell Oil land is worth less than the assessed value. He questions whether the assessment is fair, especially given the increased assessments in the past two years.

Assessor Patricia Dodds testified she is familiar with the Pioneer Beach lots. She explained the method used for calculating land values based on front footage. Dodds determines the dimensions of

the lot, calculates the effective front foot of lakeshore by adjusting the actual footage by a depth factor, then multiplies the result by a unit price. This figure is then adjusted by a map factor for the area. She testified the 150 foot is the standard depth of the lots as shown on the depth factor chart she uses.

Dodds applies a unit price of \$4500 per effective front foot on all Pioneer Beach lots. Dodds testified she reviewed sales of improved property in the area, the city, and the county. She concluded land sales ratios for Orleans lake-front lots support her assessments and are reflective of fair market value.

Exhibits were submitted of each of these sales ratio studies indicating assessments are in line with sale prices.

Dodds testified that the comparable property submitted by Burrell Oil had been given an additional 20% land value adjustment based on its condition, sale history, vacancy, and dwelling position. According to Dodds, this adjustment accounts for the property having a lower assessment proportionately than other lakefront lots in the area.

The Board of Review submitted four properties it considered comparable in location, actual lakeshore front foot, depth, effective front foot, and unit pricing. The comparable assessments are all based on the same \$4,500 unit price, applied to the effective front foot and adjusted by the same map factor. The Board of Review submitted exhibits detailing the calculation for the subject property, and the comparable properties submitted by both parties. The method used by the assessor follows the APPRAISAL MANUAL front-foot procedure used to provide uniformity in mass appraisal.¹ After following the manual procedure, she applied a local map factor which was the same for all comparable properties. The following summarizes the Board of Review exhibits:

¹ IOWA DEP'T OF REVENUE, PROPERTY APPRAISAL MANUAL (2008) 2-6 to 2-8.

Land Values	Unit Pricing	Lake Frontage	Road Frontage	Lot Depth	Depth Factor	Map Factor	Effective Front Foot	Assessed Value
Subject Property	\$4,500	100	100	175	1.05	0.94	105	\$444,200
Burrell Comp	\$4,500	100	99.55	163	1.03	0.94	103.4	\$348,700
BOR Comp #1	\$4,500	66	66	245	1.05	0.94	75.90	\$321,100
BOR Comp #2	\$4,500	50	50	163	1.03	0.94	51.50	\$217,800
BOR Comp #3	\$4,500	50	50	199	1.09	0.94	54.50	\$230,500
BOR Comp #4	\$4,500	44	44	193	1.08	0.94	47.52	\$201,000

Reviewing all the evidence, we find substantial evidence is lacking to support Burrell Oil's contention its assessment is inequitable. We find Dodds' explanation of her land pricing was credible and the method applied uniformly to other lakefront lots in appellant's area of East Lake Okoboji. The 20% discount applied to the parcel encompassing Lots 34 and 35 Pioneer Beach related to its unique features and circumstances, not shared by the subject property, and is a reasonable justification for the assessor's adjustment. Further, we find the difference between Burrell Oil's land dimensions and those of comparable lakeshore lots account for the variance in assessed value when the front-foot valuation formula is applied. We believe the land assessment reflects a fair and equitable valuation of the Burrell Oil property as of January 1, 2009.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

Viewing the evidence as a whole, we determine that substantial evidence was lacking to support the Burrell Oil's claim of inequitable assessment as of January 1, 2009. Therefore, we affirm the property assessment as determined by the Board of Review. The Appeal Board determines the property assessment value as of January 1, 2009, is \$444,200 in land value.

THE APPEAL BOARD ORDERS the January 1, 2009, assessment as determined by the Dickinson County Board of Review is affirmed.

Dated this 1st day of June 2010.

Jaqueline Rypma
Jaqueline Rypma, Presiding Officer

Karen Oberman
Karen Oberman, Board Chair

Richard Stradley
Richard Stradley, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6/1</u> , 201 <u>0</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>[Signature]</u>